

1 BEFORE THE
2 POLLUTION CONTROL HEARINGS BOARD
 STATE OF WASHINGTON

3 IN THE MATTER OF NORTHERN LIGHTS and)
4 EQUIPMENT CO., d.b.a. CLEAN SWEEP)
5 SWEEPER SERVICE, INC.,)

6 Appellant,)

7 v.)

8 PUGET SOUND AIR POLLUTION)
9 CONTROL AGENCY,)

10 Respondent.)

PCHB No. 1066

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
ORDER

11 PER W. A. GISSBERG:

12 A formal hearing on the appeal of Northern Lights and Equipment
13 Company, d.b.a. Clean Sweep Sweeper Service, to a notice of civil
14 penalty of \$100.00 for an alleged airborne dust violation came on
15 before all Board members on December 6, 1976 in Seattle, Washington.

16 Appellant appeared by and through its vice-president, George L.
17 Madden, respondent by its attorney, Keith D. McGoffin

18 Having heard the testimony, the Board makes the following

1 FINDINGS OF FACT

2 I

3 Respondent, pursuant to RCW 43 21B 260, has filed with this
4 Board a certified copy of its Regulation I containing respondent's
5 regulations and amendments thereto.

6 II

7 Appellant admitted that it caused particulate matter (dust) to
8 be handled without taking reasonable precautions to prevent it from
9 becoming airborne. Such activity is made unlawful by Section 9.15 of
10 respondent's Regulation I and a civil penalty of \$100.00 was imposed
11 by respondent upon appellant, whose contention is solely that the fine
12 is excessive.

13 III

14 After learning that the cause of the violation was an employee
15 who violated instructions and continued operation of the sweeper even
16 though he knew the water tank was empty, appellant immediately termi-
17 nated his employment. It also no longer utilizes the type of sweeper
18 involved in the violation, and now utilizes a unit possessed of a
19 larger water tank and different spray system, all of which actions were
20 prompted by appellant's sincere desire to comply with air pollution
21 regulations.

22 IV

23 Any Conclusion of Law hereinafter stated which may be deemed a
24 Finding of Fact is hereby adopted as such.

25 From these Findings the Pollution Control Hearings Board comes
26 to these

27 FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

1 CONCLUSIONS OF LAW

2 I

3 In view of the actions taken by appellant to prevent future
4 violations, we believe the penalty in this instance should be suspended.
5 However, we must point out that appellant is responsible for all acts
6 or omissions of its employees and may not escape such responsibility by
7 proving that the act or omission was contrary to instructions given to
8 the employee.

9 II

10 Nor should respondent be criticized for enforcement of its
11 regulations, all of which are designed to preserve and protect the
12 public health. Neither appellant nor other law enforcement officers
13 are created for the purpose of commending those who do not violate the
14 law, rather it is their function to see to it that those who break the
15 law are punished either by the imposition of civil or criminal penalty.

16 This Board is pleased to note that appellant has had only one
17 other contact with respondent's enforcement officers. We trust that
18 the cause of such infrequent communication is appellant's compliance
19 with the law rather than any lack of enforcement on the part of
20 respondent.

21 III

22 Any Finding of Fact which should be deemed a Conclusion of Law
23 is hereby adopted as such.

24 Therefore, the Pollution Control Hearings Board issues this
25

6
27 FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

ORDER

The civil penalty is suspended.

DATED this 13th day of December, 1976

POLLUTION CONTROL HEARINGS BOARD

Art Brown
ART BROWN, Chairman

W. A. Gissberg
W. A. GISSBERG, Member

Chris Smith
CHRIS SMITH, Member

FINAL FINDINGS OF FACT
CONCLUSIONS OF LAW AND ORDER